

**REMARKS**

The Examiner is thanked for the due consideration given the application.

Claims 1-20 are pending in the application. Claims 8-10 and 12 have been withdrawn from consideration. Support for the amendments to claim 1 can be found in the specification at page 10, lines 5-22 and in Figure 5b. New claim 13 generally sets forth subject matter canceled from claim 2. New claims 14-20 generally set forth subject matter from the preceding claims.

No new matter is believed to be added to the application by this amendment.

**Rejection Under 35 USC 112, Second Paragraph**

Claim 2 has been rejected under 35 USC §112, second paragraph as being indefinite. This rejection is respectfully traversed.

The Official Action asserts that claim 2 includes a broad limitation together with a narrow limitation. The comments in the Official Action have been considered, and the narrower subject matter has been removed from claim 2 and is now set forth in new claim 13.

The claims are thus clear, definite and have full antecedent basis.

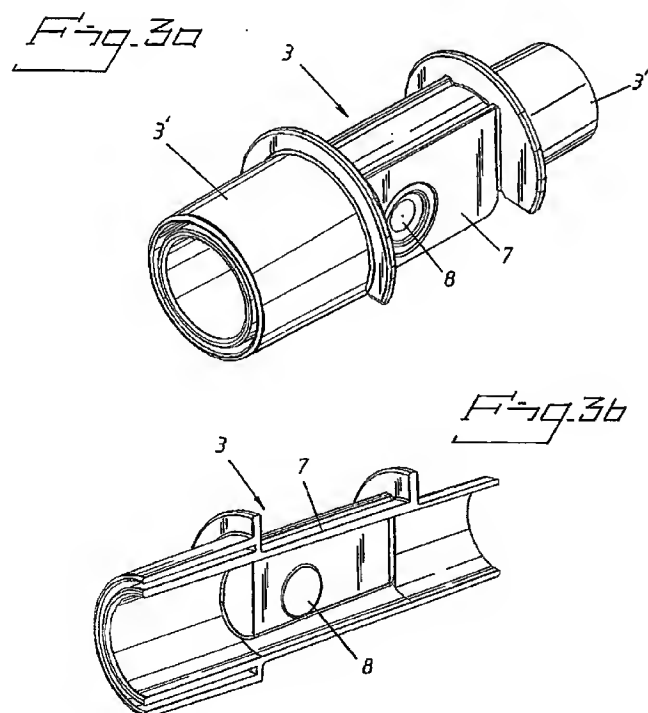
This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

### Art Rejections

Claims 1-7 and 11 have been rejected under 35 USC §102(b) as being anticipated by YELDERMAN et al. (U.S. Patent 5,067,492). Claims 1 and 4-7 have been rejected under 35 USC §102(e) as being anticipated by XU et al. (U.S. Patent 6,806,100). Claims 2, 3 and 11 have been rejected under 35 USC §103(a) as being unpatentable over XU et al.

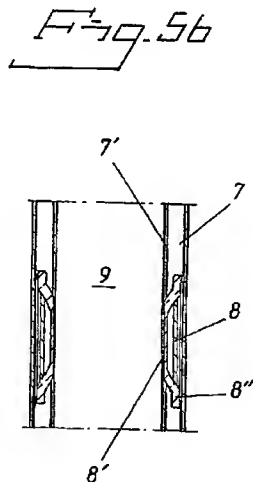
These rejections are respectfully traversed.

The present invention pertains to an efficient and economic adapter for an IR gas analyzer for the analysis of respiratory gases, the adapter including a window for an IR beam to be sent through the interior of the adapter. The adapter can be seen, by way of example, in Figures 3a and 3b of the application, which are reproduced below.



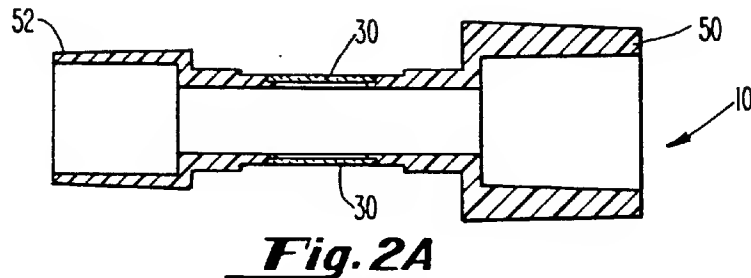
Figures 3a and 3b show an adapter (3) with a passageway fitted with windows (8).

According to the present invention it is the window that has a sunken central pan and not the surrounding adapter. This is one important aspect of the present invention, as it is the object of the invention to have the inner surface of the window, the surface turned to the interior of the adapter passageway, to lie essentially in line with the inner wall of the adapter passageway to avoid the formation of liquid-collecting pockets between the window and the inner wall surface. This is clearly described on page 10, lines 19-22 of the specification and is shown in Figure 5b, which is reproduced below.



Instant claim 1 of the present invention recites: "a center part of the window (8) generally lies flush with an inner wall surface (7')."

YELDERMAN et al. pertain to a disposable endotracheal airway adapter. The Official Action refers to Figure 2A of YELDERMANN et al., which is reproduced below.



The Official Action asserts that the YELDERMAN et al. has a window with a central part which is sunken in relation to the edge. It is correct that the window is sunken in relation to the surrounding part of the adapter, but the window is planar, and at least according to the drawings in plane with the central, surface of the adapter.

The YELDERMAN et al. patent relies only on the type of plastic material to avoid moisture condensation, but the present invention provides for a surface within the adapter passageway that is substantially without any disturbances that could cause moisture condensation. Also the choice of plastic material in claims 2 and new claim 13, the surface tension modifying substance in claim 3 and the window being arched as defined in claim 5 strive to avoid any disturbance of the flowing respiratory gases that might cause moisture condensation. These effects have not at all been considered by YELDERMAN et al.

That is, the effects might have been known, but there was no solution for producing an inexpensive adapter having a window that is essentially flush with the interior wall of the passageway before the present invention. It would be impossible to mount a window from inside the adapter passageway, due to the small dimensions in question.

YELDERMAN et al. thus fail to anticipate a claimed embodiment of the present invention.

Turning to XU et al., the Official Action has also cited this patent as showing a window having a sunken central part. However, this document is very far from the technique of the present invention, it being an optical window structure for use in chemical mechanical planarization. There is no teaching or suggestion in XU et al. of *"an IR gas analyser for the analysis of respiratory gases, where the gases flow through a through-penetrating passageway (9) . . . so that an IR beam can be sent through the windows (8) and the passageway (9) containing said breathing gases."* That is XU et al. do not relate to any adapter for breath analysis, and fail to show any other features as defined in the original claim 1 of the present invention. XU further fails to disclose or infer the generally flush window of instant claim 1 and the advantages to be obtained therefrom.

XU et al. thus fail to anticipate a claimed embodiment of the present invention.

Further, the unpatentability purported to the material of the window, one of skill would have no hint from the non-analogous XU et al. patent regarding how to address the problems of analyzing respiratory gases by utilizing materials such as HD polyethylene.

One of ordinary skill and creativity would fail to produce a claimed embodiment of the present invention from a knowledge of XU et al., and a *prima facie* case of unpatentability has thus not been made.

These rejections are believed to be overcome, and withdrawal thereof is respectfully requested.

**Conclusion**

Allowable subject matter being indicated, rejoinder is respectfully requested.

The rejections have been overcome, obviated or render moot, and no issues remain. The issuance of a Notice of Allowability is accordingly respectfully solicited.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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